IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT NO. – III

Excise Appeal No. 42206 of 2015
(Arising out of Order-in-Original No.15/2015 dt.23.07.2015 passed by the Commissioner of Central Excise, Chennai-II)

M/s.Sundaram Clayton Ltd. **Appellant**
Die Casting Division
Padi, Chennai 600 050

vs

Commissioner of Central Excise, **Respondent**
Chennai II Commissionerate,
Chennai 600 001.

(i) Excise Appeal No.42191 of 2017 (ii) Excise Appeal No.42192 of 2017 (iii) Excise Appeal No.42193 of 2017 (M/s.Sundaram Clayton Ltd.)

(Arising out of Order-in-Appeal No.21-23/2017 (CTA-I) dt. 27.07.2017 passed by the Commissioner of Central Tax (Appeals-I), Chennai)

APPEARANCE:

Shri V. Ravindran, Advocate
For the Appellant
Shri P.Arul C. Durai Raj, Superintendent (AR)
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri P. Anjani Kumar, Member (Technical)

Final Order No. 41413-41416 / 2019

Date of Hearing: 22.11.2019
Date of Decision: 22.11.2019

Per P. Anjani Kumar

The appellants M/s.Sundaram Clayton Ltd., Chennai are engaged in manufacture of parts of motor vehicles. The appellants availed credit on various inputs and input services. The department has issued show cause notices to the appellants seeking denial of credit availed on certain input services on the premise that they do not have nexus to the manufacturing activity. The appellants were issued four SCNs Nos.77/2014 dt. 23.09.2014, 08/16 dt. 3.2.2016, 15/2016 dt. 29.2.2016 & 22/2016 dt. 29.2.2016 seeking to deny credit availed on input services. Show Cause Notice dt. 23.9.2014 was adjudicated by the Commissioner vide Order-in-Original No.15/2015 dt. 23.07.2015 and other SCNs were adjudicated by Joint Commissioner vide Order No.64 to 67/2016 dt. 30.09.2016 wherein he has dropped most of the demands. On appeals filed by the appellants, the Commissioner (Appeals) vide Orders-in-Appeal No. 21-23/2017 dt. 27.07.2017 had set aside the orders of the Joint Commissioner and has upheld the denial of cenvat credit. Hence appellants have filed these four appeals.

2. In respect of Appeal E/42206/2015, the services which are in dispute are (i) Business Auxiliary Service (ii) BAS (Export of Goods) (iii) Consulting Engineers (iv) Landscaping services and Warehousing services. The input services which are under dispute in respect of Appeal E/42191/2017 to E/42193/2017 are (i) Housekeeping service (ii) Fabrication and Boiler Services (iii) Bio Medical Waste Disposal Service (iv) Pest Control used in canteen, welding of canteen tables,

servicing of steam boilers. Thus, a total cenvat credit of Rs.73,36,428 + 50,03,454/- is sought to be recovered by these impugned orders.

3. Ld. Counsel for the appellants submitted a table showing inputs wise usage and applicable judgments in respect of such services as follows :

Appeal No.E/42206/2015:

Sl.No.	Impugned Service	Usage	Covered by
1	Business Auxiliary Services	Services of consultants located outside India were engaged to enable sale of company's products in Europe and Korea and to provide services to such customers abroad, in respect of such sale.	In the Appellant own case OIO 03/2016 dt. 29.01.2016; 64 to 67/2016 dt. 30.09.2016 (Period April 2014 – Feb 2016) Turbo Energy Ltd.- 2013 (31) S.T.R.573 (Tri. – Chennai)
2	BAS – Export of Goods	Services viz. Freight forwarding and customs clearance activities for export of their goods	In the Appellant own case, OIO 03/2016 dt. 29.01.2016; 64 to 67/2016 dt. 30.09.2016 Danmet Chemicals P. Ltd.reported in2013 (30) S.T.R.308 (Tri. – Mumbai) Leela Scottish Lace Pvt. Ltd. reported in2010 (19) S.T.R.69 (Tri. – Bang.) Rolex Rings P. Ltd.- 2008 (230) E.L.T.569 (Tri. – Ahmd.)
3.	Consulting Engineer	Services of foreign technical consultants were engaged to improve operational efficiency of manufacturing process and quality of products	In the Appellant own case OIO 03/2016 dt.29.01.2016; 64 to 67/2016 dt.30.09.2016 (Period April 14 to Feb 16) Castrol India Ltd. – 2013 (291) E.L.T.469 (Tri. – Ahmd.) Shree Bhawani Paper Mills Ltd.-- 2012 (28) S.T.R.409 (Tri. – Del.)
4	Landscaping Services	Statutory obligation to plant and	Millipore India - 2012 26 S.T.R.514 (HC-Karnataka) Brakes India Ltd. -- 2010 (19) S.T.R.524 (Tri.-Bang.)

		maintain green cover in the factory's premises as per Section 52A of the Factories Act	Xomox Sanmar Ltd. - 2010 TIOL 1058-CESTAT-MAD
5	Warehouse services	Storing of raw materials as well as finished goods either before clearance or after clearance	In the Rspondent's own case , Sundaram Clayton Ltd. - 2016 (42) S.T.R.741 (Tri-Chennai)

Appeal Nos.E/42191-42193/2017

Sl.No.	Impugned Service	Usage	Covered by
1	Housekeeping	Services are used for maintaining day to day cleanliness and hygiene within the premises of the appellant	Indian Oil Corporation Ltd. - 2017 (50) S.T.R.294 (Tri. – Chennai)
			Easun MR Tap Changers P. Ltd. -2017 (47) S.T.R.185 (Tri. – Chennai)
			Hindustan Petroleum Corpn. Ltd. - 2017 (47) S.T.R.136 (Tri. – Hyd.)
			Godrej & Boyce Mfg. Co. Ltd.- 2017 (48) S.T.R.88 (Tri. – Chennai)
			Indian Additives Ltd - 2016 (44) S.T.R.611 (Tri. – Chennai)
			Balkrishna Industries Ltd. - 2010 (254) E.L.T.301 (Tri. – Mumbai)
			Maruti Suzuki - 2015 (38) S.T.R.503 (Tri. – Del.)
			Pricol Ltd. - 2016 (41) S.T.R.649 (Tri. – Del.)
			NTF (India) Pvt Ltd. - 2013 (30) S.T.R.575 (Tri. – Del.)
			Rotork Control (India) Pvt Ltd. - 2010 (20) S.T.R.684 (Tri. – Chennai)
			Hindustan Coca Cola Beverages Pvt. Ltd. reported in2017 (49) S.T.R.88 (Tri. – Hyd.)
			Hindustan Petroleum Corpn. Ltd. reported in2017(47) S.T.R.136 (Tri. – Hyd.)
			Hinduja Foundries Ltd. reported in2017 (52) S.T.R.190 (Tri. – Chennai)
			Commissioner of Customs, Delhireported in2015 (39) S.T.R.351 (Tri. – Del.)
			JaypeeSidhi Cement Plant reported in2014 (310) S.T.R.808 (Tri. – Del.)
2	Fabrication Work canteen	Maintaining canteen facilities is a statutory requirement as per Section 46 of the Factories Act, 1948	Hindustan Coca Cola Beverages Pvt. Ltd. – 2017 (49) STR 88 (Tri.-Hyd.)
3.	Pest control	These services are used for	HPCL 2017 (470 STR 136 (Tri.-Hyd) Hinduja Foundries Ltd. 2017 (52) STR 190 (Tri.-Chennai

		maintaining day to day cleanliness and hygine within the premises of the appellant.	
4.	Bio-Medical waste	Maintaining and providing first-aid facilities is a statutory requirement as per Section 45 of the Factories Act, 1948.	Mark Exhaust Systems Ltd. – 2015 (39) STR 351 (Tri.-Del.)

4. Ld. A.R for the department reiterates the findings in OIO in respect of Appeal E/42206/2015 and findings of OIA in respect of other three appeals.

5. Heard both sides and perused the records.

6. On going through the rival submissions, it is seen that the issue raised therein in the impugned orders are no longer *res integra*. We find that they are covered by the ratio of the cases submitted by the ld.counsel of the appellant. We find that the definition of "input" or "input services" in the CCR is very much wide and as long as the primary conditions like, use of input or input service in or in relation to the manufacture of final products or output service is not disputed, the credit cannot be denied. Moreover, we find that the term 'in or in relation' is very wide and covers the entire gamut of activities undertaken by the appellants. Therefore, following the ratio of the judgments cited above, we are of the considered opinion that the credit of the same is available to the appellants.

7. In the result, the appeals are allowed with consequential reliefs, if any, as per law.

(Operative part of the order pronounced in court)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

(**P. ANJANI KUMAR**)
Member (Technical)

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